

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division

UNITED STATES OF AMERICA,

v.

Criminal Nos. 2:19-cr-47-3

AGHEE WILLIAM SMITH, II
Defendant.

**DEFENDANT SMITH'S PROPOSED STRIKES FOR CAUSE
AND REQUEST FOR ADDITIONAL INFORMATION DURING VOIR DIRE**

The defendant, Aghee William Smith, II, through counsel, respectfully files his strikes for cause based on the questionnaires provided to the venire panel. The chart below focuses on jurors that are likely be deemed sufficient to strike for cause. Mr. Smith reserves the right to voir dire and strike for cause any jurors based on follow-up questions or those who have not yet completed a questionnaire.

Juror #	Cause for Strike
8	<ul style="list-style-type: none"> • Travel: Has travel plans Feb. 14-19 including airline and hotel reservations (6, 7) • Hardship: Mandatory training at work in February (6)
11	<ul style="list-style-type: none"> • Bias: States that prior experience would affect them as a juror because he “would like justice for those who where [sic] stolen from” and that the “justice system failed me” previously as a theft victim (37d-e). Furthermore, “I used to take care of inmate patients [sic] all them said the were innocent.” (38) There would influence ability to fairly and impartially judge the evidence.
12	<ul style="list-style-type: none"> • Hardship: Would be out of work with no pay for a month since position is based on attendance. Students would be unlikely to receive extra intervention in their absence (6). Would also interfere with college courses (71).
14	<ul style="list-style-type: none"> • Travel: Has work travel schedule in second week of February, and international travel the third week. (6) • Constitutional violations: Would have difficulty following the rule that defendant has no obligation to testify and it cannot be held against them. “If a person has nothing to hide, why wouldn’t they testify?” (49) • Bias: Would give “more” weight to law enforcement testimony. (52)). • Constitutional violations: Is “unsure” if he would have reservations in voting not guilty because it “depends on if it was based on a technicality.” (62). But has no reservations

	voting guilty (61). This affects the presumption of innocence and the government's burden of proof.
18	<ul style="list-style-type: none"> • Bias and Constitutional violation: Has had negative experience with defense attorneys who had "gotten my testimony dismissed" in a case where they were a witness. (36b). Also, "Out of honesty I would be more likely to listen to the prosecutor [sic]." (43b). "Yes," would give more weight to police officers' testimony. "I back out police officers." (52) • Constitutional violation: "Yes," would have trouble treating indictment as an accusation and not evidence of guilt. "I would need to be shown proof that they are truly not guilty of the crime against them." (48) "Yes" would have difficulty following the rules regarding presumption of innocence and the burden of proof being on the government (50). "Yes" they have now formed an opinion about this case as a result of filling out this questionnaire." (70) • Bias and Constitutional violation: Personal experience would affect them as a juror because they think people need to "take ownership of what you did wrong. I take ownership that there are consequences for your actions. Your actions don't just effect [sic] you but others too." (37e) • Bias: Has strong opinions against financial advisors, etc, because "my mother has been a victim of identity theft." His mom lost a lot of money and didn't catch who did it. (32, 71) • Possible conflict: "me and my family all are client of spectrum" (45) • Vision or hearing issues (3): Selected "yes" that they have "significant problems" hearing or eyesight (3)
19	<ul style="list-style-type: none"> • Hardship: Only one of two employees at a business of 800 acres of farming. (6) • Travel: Has travel planned Feb. 11-13, and Feb. 17-21. (7)
20	<ul style="list-style-type: none"> • Constitutional violations: "Once I hear both sides, even if one thing leaves me towards one side, I stay over there." (11) This affects the government's burden and presumption of innocence. • Constitutional violations: Regarding presumption of innocence and government's burden, they wrote "I feel like they should have to prove they're innocent because what if they know they're guilty but prosecutors can't prove it." (50) • Constitutional violations: "Yes" they have now formed an opinion about this case after filling out the questionnaire. "I feel as though they were doing this with malicious intentions. What's right is right, what's wrong is wrong." (70) • Hardship: Has a mortgage and is nervous about falling short from being out of work. (21i)
21	<ul style="list-style-type: none"> • Attention/medical: Migraine medication "produced fatigue, foggy thinking, affects concentration." (5). It also makes them "extremely fatigued, nauseous, confused. Potential to not understand the case or make incorrect judgments for/against defendants." (71) • Bias: States "Yes", has "some bias against financial advisors and investment bankers." (32)

	<ul style="list-style-type: none"> • Constitutional violation and bias: “Yes” they would have difficulty treating the indictment as an accusation, not evidence of guilt, and write they would have “potential difficulty with unconscious bias.” (48)
29	<ul style="list-style-type: none"> • Hardship: Is a small business owner that has only one other employee. (6) His homebuilding projects “would come to a complete halt causing breach of contract.” (21i).
32	<ul style="list-style-type: none"> • Hardship: commute would be two hours each way, with two children to pick up from school and missing work, it “would be impossible for 4 weeks” (9, 11, 71)
37	<ul style="list-style-type: none"> • Hardship: Self-employed as a realtor and would not be able to work for 4 weeks, which would affect income. (6, 71) “If I am out for a month, I lose all pending contracts and in process clients.” (21i).
39	<ul style="list-style-type: none"> • Hardship: Works for the Navy in “very time-sensitive matters, and our dep’t is understaffed.” (10) • Constitutional violation: “Yes,” if the law as given goes against their personal views of what the decision should be, they would base verdict on personal views. (69)
42	<ul style="list-style-type: none"> • Travel: “I travel frequently as part of my job with the Navy,” and has a travel schedule through February (6, 7, 10, 71)
47	<ul style="list-style-type: none"> • Hardship: Works as a teacher and substitutes are very hard to find right now, as there is a shortage during the pandemic (73, p. 25). Also, there are no substitutes as a coach for sports, so the student athletes would simply not have a coach. (6, p. 25) • Medical: Says ADHD would interfere with ability to pay attention (4) • Constitutional violations: “Yes,” they would have trouble with defendant’s choice not to testify . “Unsure if I would until it happens.” (49). “Unsure” if they can follow the rules of the presumption of innocence and burden of proof. “Really don’t know until it happens.” (50). “Unsure” if they would have reservations voting guilty or not guilty. “I don’t know until the situation happens.” (61, 62).
49	<ul style="list-style-type: none"> • Hardship: Runs own business and cannot be gone 4 weeks. (6, 21i, 71)
51	<ul style="list-style-type: none"> • Hardship: Is a nurse and cannot be away for 4 weeks, especially during pandemic. “My employment role [is a] necessity during the ongoing pandemic.” (6, 71).
56	<ul style="list-style-type: none"> • Hardship: Works as a teacher and substitutes are very hard to find right now because of a shortage during the pandemic (73).
63	<ul style="list-style-type: none"> • Difficulty with English: Did not know if she could complete questionnaire without assistance (1, 2, 12). “I don’t understand what to ‘commit mail fraud’ mean.” (12) Wrote “Do not understand” for questions about if they have strong opinions about financial advisors. (32)
70	<ul style="list-style-type: none"> • Travel: “staying Feb 10-13 (Thursday - Sunday) out of town.” Unclear when he is leaving on Thursday.
75	<ul style="list-style-type: none"> • Hardship: Juror says he is scheduled to begin a new job in February • Media: Indicated that he has viewed information about this case on television, read about it online, and read about it in the newspaper. • Bias: Notes that his niece is married to Judge Jackson’s nephew. No further detail provided about nature of relationship.

77	<ul style="list-style-type: none"> • Hardship: Daughter giving birth to grandchild on 2/14 in St. Louis. “I would be very disappointed to miss the birth of my first grandchild. My daughter and family would be very sad too.” • Bias: Juror and spouse are victims of bank fraud that was reported to police – outcome of the case reported as “ongoing.” • Would have difficulty not treating indictment as evidence of guilt: “Yes”: “In theory I should say ‘No.’ But in reality I think the conviction rate when indicted by the Federal Government is very, very high.” • Bias: Has unfavorable opinion about several attorneys at Anchor Legal Group
98	<ul style="list-style-type: none"> • Hardship: Moving to Florida on Feb 3
99	<ul style="list-style-type: none"> • Hardship: prepaid travel Mar 11-16
103	<ul style="list-style-type: none"> • Hardship: “Mother-in-law in Hospice and health is declining rapidly. If something happens with her it could cause an issue.”¹ • Hardship: “I own a business and could not miss a month.” Juror says, “when I am not at work – we are closed. Okay for a few days not a month.” He is the owner of a small home improvement/construction company where he supervises two employee “installers.” Juror says his duties are to “answer the phone, do all sales, payroll, AR [accounts receivable], AP [accounts payable], scheduling, material orders, oversee all current projects.” • Bias: When asked if he has “strong opinions” about “financial advisor” etc. juror indicates “Yes” and writes that these professionals are responsible for people’s financial well being and “need to be held accountable for losing people’s retirement.” • Difficulty following Fifth Amendment: Juror instructed that a defendant has no obligation to testify and that jurors cannot draw any conclusion from that decision. Would you have any difficulty following these rules? Juror marks “Yes.” He explains, “if you are innocent you testify unless there are circumstances which interfere.” • Personal views over court’s instruction: If the law conflicts with this juror’s personal views, juror says “Yes,” he would tend to base his verdict on his personal views of the case. • Self-identified bias: “Yes,” there is something the Court should know that might influence juror’s ability to fairly and impartially judge evidence and apply the law as instructed: “I have money invested with financial institutions and take their responsibility with my money very seriously.”
104	<ul style="list-style-type: none"> • Difficulty with English: This juror indicated that he is able to read/write/understand English “with difficulty.” Juror failed to answer several questions at all, including several that ensure willingness to follow fundamental constitutional rules: e.g., 17 (marital status), 27 (education), 37 (whether accused of crime, questioned, etc.), 48-50 (constitutional rights), 51-52 (witness bias). Also did not check box on reservations about voting guilty or

¹ Some quotations corrected for spelling, punctuation, or grammar.

	not guilty, writing in this: <u>I don't answer</u> . The same was written in response to questions 76 and 78.
113	<ul style="list-style-type: none"> • Hardship: prepaid travel with entire family from Feb 3-8 • Personal views over court's instruction: If the law conflicts with this juror's personal views, juror says "Yes," s/he would tend to base his verdict on his personal views of the case.
114	<ul style="list-style-type: none"> • Hardship: part-time student at ODU who also works full time. Says class schedule will interfere with ability to serve as juror in this trial and notes that working full time already "limits my available time to complete required lectures and course work due dates." • Hardship: "Anxiety disorder – extreme anxiety when driving which would impair my ability to appear for duty." Says later, "Anxiety would impair my ability to be present and arrive (drive) to court." • Willing to convict but unsure about voting not guilty – Juror says she would have no reservations about voting to convict but is "unsure" whether she would have reservations about voting not guilty even after concluding that the government had not proved guilt beyond a reasonable doubt. • Presumption of innocence and guilt beyond reasonable doubt: Juror is "unsure" if she would have difficulty following these rules. • Personal views over court's instruction: If the law conflicts with this juror's personal views, juror says "Yes," she would tend to base his verdict on his personal views of the case.
120	<ul style="list-style-type: none"> • Hardship: Prepaid Caribbean cruise from Feb 18-26 • Hardship: Also says that missing four weeks of work would be a hardship – works in small dental office at front desk and is often the only one there.
122	Hardship: "I take business trips in February. Feb 18, 19, 20, 21."
129	<ul style="list-style-type: none"> • Hardship: Juror takes care of 9 year old son; also cares for a neighbor's son by picking both kids up from school and watching them in the afternoon. (Q6) Juror writes: "It would create an <u>incredible</u> hardship for me for childcare. I can get short-term help but I have <u>no one</u> who can step in for that long a trial." (Q71) • Sight issues: "I have blurred vision at distance." (**Note that it might otherwise be possible to accommodate this issue but social distancing rules make extreme distances inevitable.) • Constitutional questions: Juror is "unsure" about following rules about the presumption of innocence and burden of proving guilt beyond a reasonable doubt. Explains that "demeanor of those involved might make me thing guilty/not guilty regardless."

130	<ul style="list-style-type: none"> • Bias: <div style="border: 1px solid black; padding: 5px; margin: 5px;"> <p>52. Would you give any more or less weight to the testimony of a law enforcement officer than to testimony of any other witnesses solely because of his or her employment in law enforcement?</p> <p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unsure</p> <p>(a) If yes or unsure, please explain: <u>I would believe a police officer</u></p> </div> • Personal views over court's instruction: If the law conflicts with this juror's personal views, juror says "Yes," she would tend to base his verdict on his personal views of the case. • Possible conflict: Juror wonders whether she "might have done the transcript for case" in which case "it might be a conflict." Juror worked for as stenographic reporter with Chesapeake police department from 2009 to 2021 where she "transcribes interviews, body cams, jail calls, phone calls, for our department as well as other city, state, and federal agencies." (Juror does not indicate remembering any specific work that might be related to this case.)
131	<ul style="list-style-type: none"> • Hardship: "I am single and self-employed as a therapist/coach. If I don't work, I don't earn income and can't pay my bills." Notes that she also has "ongoing weekly sessions with my clients" noting "their physical and mental health" would "be greatly impeded" by interruption of services. (Q6) • Hardship: Later explains, "If I don't work daily...I don't earn income. I am still recovering economically from the impact of COVID on my business." (Q21) • Bias: Expresses bias against financial advisors three different times: <div style="border: 1px solid black; padding: 5px; margin: 5px;"> <p>32. Do any of you have any strong opinions either for or against financial advisors, stockbrokers, trust companies, banks, insurance salesmen, or investment brokers?</p> <p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>(a) If yes, please explain: <u>they are largely unethical</u></p> </div> <div style="border: 1px solid black; padding: 5px; margin: 5px;"> <p>70. As a result of filling out this questionnaire, have you now formed any opinion about this case?</p> <p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>(a) If yes, please explain: <u>It appears there are a lot of "victims" of this alleged crime; knowing what I do about the financial services industry from being in it, I would tend to have a bias against the defendants.</u></p> </div>

	<p>71. Is there any reason that you believe you should not sit as a juror in this case?</p> <p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>(a) If yes, please explain:</p> <p><u>Some bias against those in financial services; hardship</u> <u>economic hardship it would create as well as impact on my clients from</u> <u>disruption of services</u></p> <ul style="list-style-type: none"> • Unsure about personal views over court's instruction: If the law conflicts with this juror's personal views, juror says "unsure," about whether she would tend to base verdict on personal views of the case. <u>Explains: "I'd have to be in the situation to decide."</u>
143	<ul style="list-style-type: none"> • Hardship: "I live week to week and ... I'm having 13 teeth pulled [on] 1-27-22." (Q6) • Difficulty following Fifth Amendment: Juror instructed that a defendant has no obligation to testify and that jurors cannot draw any conclusion from that decision. Would you have any difficulty following these rules? Juror marks "Yes." He explains, "Why would he not tell his side to the court?" • Willing to convict but unsure about voting not guilty – Juror says he would have no reservations about voting to convict but says "yes" when asked if he would have reservations about voting not guilty if he concluded that the government had not proved guilt beyond a reasonable doubt. Explanation: "Because I wasn't convinced beyond of reason of a doubt."

Respectfully submitted,

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By: _____/s/_____

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